

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 9, 2013

AMENDED IN SENATE APRIL 1, 2013

## SENATE BILL

**No. 620**

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### Introduced by Senator Wright

February 22, 2013

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An act to amend Sections 60290, ~~60335~~, 60336, and 60339 of the Water Code, relating to water.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 620, as amended, Wright. Water replenishment districts.

(1) Existing law, the Water Replenishment District Act, provides for the formation of water replenishment districts and grants authority to a water replenishment district relating to the replenishment, protection, and preservation of groundwater supplies within that district. The act generally authorizes a water replenishment district to establish an annual reserve fund in an amount not to exceed \$10,000,000 commencing with the 2000–01 fiscal year, and thereafter, as that amount is adjusted annually. The act requires a minimum of 80% of the reserve fund to be expended for water purchases.

This bill, *until the 2019–20 fiscal year*, would eliminate the requirement that a minimum of 80% of the reserve fund be expended for water purchases.

~~(2) The act requires the board of directors of a water replenishment district to declare whether funds are to be raised to purchase water for replenishment, as specified, and whether the funds are to be raised either by a water charge, a general assessment, a replenishment assessment, or a combination, as prescribed. The act requires the board to make~~

~~certain determinations in connection with a decision to impose a water replenishment assessment and requires the water replenishment assessment to be fixed at a uniform rate per acre-foot of groundwater produced within the district. The act provides that if a producer knowingly fails to pay a replenishment assessment within 30 days of when due, the producer is liable to the district for interest at the rate of 1% per month on the delinquent amount of the assessment.~~

~~This bill, instead, would provide that the producer is liable to the district for a penalty of 5% of the unpaid assessment as of the due date in addition to interest at the rate of 1% per month, or part of a month the assessment remains unpaid.~~

~~(3)~~

~~(2) The act provides that any operator of a water-producing facility that knowingly fails to register his or her water-producing facility or knowingly fails to file a groundwater production statement, or any other reports or statements required, as specified, in addition to interest due, as prescribed, is liable to the district for a penalty of \$150.~~

~~This bill would provide that the operator is liable to the district for a penalty of \$1,000. *The bill would delay the application of the increase in the amount of that penalty to an operator of a water-producing facility that is a party to litigation involving a water replenishment district until after the litigation is settled or all legal remedies are exhausted.*~~

~~(4)~~

~~(3) The act authorizes the superior court of the county in which the major portion of the district lies to issue a temporary restraining order upon the filing by the district with the court of a verified petition or complaint setting forth that the defendant is the operator of a water-producing facility that has not been registered with the district or that the defendant is delinquent in the payment of a replenishment assessment, as specified.~~

~~This bill would require the court to direct that the party prevailing on any motion, as prescribed, be awarded the reasonable attorney's fees and costs of making or opposing the motion unless the court finds that the party acted with substantial justification or that other circumstances make the imposition of attorney's fees and costs unjust. *The bill would also delay the application of those provisions to an operator of a water-producing facility that is a party to litigation involving a water replenishment district, as specified above.*~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 60290 of the Water Code is amended to read:

60290. The district may establish an annual reserve fund in an amount not to exceed ten million dollars (\$10,000,000) commencing with the 2000–01 fiscal year. The maximum allowable reserve fund may be adjusted annually commencing with the 2001–02 fiscal year to reflect percentage increases or decreases in the blended cost of water from district supply sources. *Beginning in the 2019–20 fiscal year, a minimum of 80 percent of the reserve shall be for water purchases.*

~~SEC. 2. Section 60335 of the Water Code is amended to read:~~

~~60335. If any producer shall knowingly fail to pay a replenishment assessment within 30 days of when due, the producer shall become liable to the district for a penalty of 5 percent of the unpaid assessment as of the due date in addition to interest at the rate of 1 percent per month, or part of a month that the assessment remains unpaid, on the delinquent amount of the assessment.~~

~~SEC. 3.~~

SEC. 2. Section 60336 of the Water Code is amended to read:

60336. (a) Should any operator of a water-producing facility knowingly fail to register his or her water-producing facility or knowingly fail to file the groundwater production statement, or knowingly fail to file and furnish any other reports or statements required by resolution of the board adopted pursuant to Section 60326, the operator shall, in addition to interest as provided in Section 60335, become liable to the district for a penalty of one thousand dollars (\$1,000).

*(b) The changes made to this section by the act adding this subdivision shall not apply to any operator of a water-producing facility that is a party to litigation involving a water replenishment district at the time the act adding this subdivision takes effect until after the litigation is settled or all legal remedies have been exhausted.*

~~SEC. 4.~~

SEC. 3. Section 60339 of the Water Code is amended to read:

60339. (a) The superior court of the county in which the major portion of the district lies may issue a temporary restraining order upon the filing by the district with the court of a verified petition

1 or complaint setting forth that the person named therein as  
2 defendant is the operator of a water-producing facility which has  
3 not been registered with the district or that the defendant is  
4 delinquent in the payment of a replenishment assessment. The  
5 temporary restraining order shall be returnable to the court on or  
6 before 10 days after its issuance.

7 (b) The court may issue and grant an injunction restraining and  
8 prohibiting the named defendant from the operation of any  
9 water-producing facility when it is established by the  
10 preponderance of the evidence at a hearing that the defendant has  
11 failed to register the water-producing facility with the district or  
12 that the defendant is delinquent in the payment of a replenishment  
13 assessment. The court may provide that the injunction so made  
14 and issued shall be stayed for a period not to exceed 10 days to  
15 permit the defendant to register the water-producing facility or to  
16 pay the delinquent replenishment assessment.

17 (c) Service of process shall be made by posting a copy of the  
18 summons and complaint upon the water-producing facility or the  
19 parcel of land upon which the water-producing facility is located  
20 and by personal service of summons and complaint upon the named  
21 defendant.

22 (d) The right to proceed for injunctive relief as provided in this  
23 section shall be in addition to any other right which may be  
24 provided elsewhere in this act or which may be otherwise allowed  
25 by law. The procedure provided in Chapter 3 (commencing with  
26 Section 525) of Title 7 of Part 2 of the Code of Civil Procedure  
27 regarding injunctions shall be followed except insofar as it may  
28 be otherwise provided in this section.

29 (e) The court shall direct that the party prevailing on any motion  
30 under this section be awarded the reasonable attorney's fees and  
31 costs of making or opposing the motion unless the court finds that  
32 the other party acted with substantial justification or that other  
33 circumstances make the imposition of attorney's fees and costs  
34 unjust.

35 (f) *The changes made to this section by the act adding this*  
36 *subdivision shall not apply to any operator of a water-producing*  
37 *facility that is a party to litigation involving a water replenishment*  
38 *district at the time the act adding this subdivision takes effect until*  
39 *after the litigation is settled or all legal remedies have been*  
40 *exhausted.*

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